

section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

#### § 5704. Exemption from tax

##### (a) Tobacco products furnished for employee use or experimental purposes

Tobacco products may be furnished by a manufacturer of such products, without payment of tax, for use or consumption by employees or for experimental purposes, in such quantities, and in such manner as the Secretary shall by regulation prescribe.

##### (b) Tobacco products and cigarette papers and tubes transferred or removed in bond from domestic factories and export warehouses

A manufacturer or export warehouse proprietor may transfer tobacco products and cigarette papers and tubes, without payment of tax, to the bonded premises of another manufacturer or export warehouse proprietor, or remove such articles, without payment of tax, for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States; and manufacturers may similarly remove such articles for use of the United States; in accordance with such regulations and under such bonds as the Secretary shall prescribe. Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.

##### (c) Tobacco products and cigarette papers and tubes released in bond from customs custody

Tobacco products and cigarette papers and tubes, imported or brought into the United States, may be released from customs custody, without payment of tax, for delivery to the proprietor of an export warehouse, or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages, in accordance with such regulations and under such bond as the Secretary shall prescribe.

##### (d) Tobacco products and cigarette papers and tubes exported and returned

Tobacco products and cigarette papers and tubes classifiable under item 804.00 of title I of the Tariff Act of 1930 (relating to duty on certain articles previously exported and returned) may be released from customs custody, without payment of that part of the duty attributable to the internal revenue tax for delivery to the original manufacturer of such tobacco products or cigarette papers and tubes or to the proprietor of an export warehouse authorized by such manufacturer to receive such articles, in accordance with such regulations and under such bond as the Secretary shall prescribe. Upon such release such products, papers, and tubes shall be subject to this chapter as if they had not been exported or otherwise removed from internal-revenue bond.

(Aug. 16, 1954, ch. 736, 68A Stat. 708; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1418; Pub. L. 88-342, §1(b), June 30, 1964, 78 Stat. 234;

Pub. L. 89-44, title V, §502(b)(4), June 21, 1965, 79 Stat. 151; Pub. L. 94-455, title XIX, §§1905(a)(26), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 99-509, title VIII, §8011(a)(2), Oct. 21, 1986, 100 Stat. 1952; Pub. L. 101-239, title VII, §7508(a), Dec. 19, 1989, 103 Stat. 2370; Pub. L. 105-33, title IX, §9302(h)(1)(A), Aug. 5, 1997, 111 Stat. 673; Pub. L. 106-476, title IV, §4002(b), Nov. 9, 2000, 114 Stat. 2177.)

#### REFERENCES IN TEXT

Item 804.00 of title I of the Tariff Act of 1930, referred to in subsec. (d), was classified to item 804.00 of the Tariff Schedules of the United States. The Tariff Schedules of the United States were replaced by the Harmonized Tariff Schedule of the United States. The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

#### AMENDMENTS

2000—Subsec. (d). Pub. L. 106-476 substituted “the original manufacturer of such” for “a manufacturer of” and inserted “authorized by such manufacturer to receive such articles” after “proprietor of an export warehouse”.

1997—Subsec. (b). Pub. L. 105-33 inserted at end “Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.”

1989—Subsec. (c). Pub. L. 101-239 inserted “or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages,” after “export warehouse.”

1986—Subsec. (c). Pub. L. 99-509 struck out “to a manufacturer of tobacco products or cigarette papers and tubes or” after “for delivery”.

1976—Subsecs. (a), (b). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsecs. (c), (d). Pub. L. 94-455, §§1905(a)(26), 1906(b)(13)(A), inserted “or to the proprietor of an export warehouse” after “to a manufacturer of tobacco products or cigarette papers and tubes” and struck out “or his delegate” after “Secretary”.

1965—Subsec. (c). Pub. L. 89-44, §502(b)(4), redesignated subsec. (d) as (c), struck out all references to tobacco materials, and repealed former subsec. (c) which related to tobacco materials shipped or delivered in bond.

Subsecs. (d), (e). Pub. L. 89-44, §502(b)(4)(A), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

1964—Subsec. (e). Pub. L. 88-342 added subsec. (e).

1958—Subsec. (b). Pub. L. 85-859 included transfers by export warehouse proprietors, and substituted “tobacco products and cigarette papers and tubes” for “articles”, before “without payment of tax”.

Subsec. (c). Pub. L. 85-859 authorized shipments without payment of tax of tobacco stems and waste only, to any person for use by him as fertilizer or insecticide or in the production of fertilizer, insecticide, or nicotine.

Subsec. (d). Pub. L. 85-859 substituted “tobacco products, cigarette papers and tubes” for “articles” wherever appearing, and struck out provisions which related to delivery to bonded premises of manufacturers and dealers.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-476, title IV, §4002(d), Nov. 9, 2000, 114 Stat. 2177, provided that: “The amendments made by this section [amending this section and sections 5754 and 5761 of this title] shall take effect 90 days after the date of the enactment of this Act [Nov 9, 2000].”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after

Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, set out as a note under section 5701 of this title.

**EFFECTIVE DATE OF 1989 AMENDMENT**

Pub. L. 101-239, title VII, §7508(b), Dec. 19, 1989, 103 Stat. 2370, provided that: "The amendment made by subsection (a) [amending this section] shall apply to articles imported or brought into the United States after the date of the enactment of this Act [Dec. 19, 1989]."

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-509 applicable to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after Dec. 15, 1986, see section 8011(c) of Pub. L. 99-509, set out as a note under section 5061 of this title.

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by section 1905(a)(26) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

**EFFECTIVE DATE OF 1965 AMENDMENT**

Amendment by Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

**EFFECTIVE DATE OF 1964 AMENDMENT**

Pub. L. 88-342, §2, June 30, 1964, 78 Stat. 234, provided that the amendment made by section 2 of Pub. L. 88-342 shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1964.

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

**REPORT**

Pub. L. 106-476, title I, §4002(e), Nov. 9, 2000, 114 Stat. 2177, provided that: "The Secretary of the Treasury shall report to Congress on the impact of requiring export warehouses to be authorized by the original manufacturer to receive relanded export-labeled cigarettes."

**§ 5705. Credit, refund, or allowance of tax**

**(a) Credit or refund**

Credit or refund of any tax imposed by this chapter or section 7652 shall be allowed or made (without interest) to the manufacturer, importer, or export warehouse proprietor, on proof satisfactory to the Secretary that the claimant manufacturer, importer, or export warehouse proprietor has paid the tax on tobacco products and cigarette papers and tubes withdrawn by him from the market; or on such articles lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession of ownership of the claimant.

**(b) Allowance**

If the tax has not yet been paid on tobacco products and cigarette papers and tubes provided to have been withdrawn from the market or lost or destroyed as aforesaid, relief from the tax on such articles may be extended upon the filing of a claim for allowance therefor in accordance with such regulations as the Secretary shall prescribe.

**(c) Limitation**

Any claim for credit or refund of tax under this section shall be filed within 6 months after

the date of the withdrawal from the market, loss, or destruction of the articles to which the claim relates, and shall be in such form and contain such information as the Secretary shall by regulations prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 709; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1419; Pub. L. 89-44, title VIII, §808(b)(1), (2), (c)(1), June 21, 1965, 79 Stat. 164, 165; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

**AMENDMENTS**

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

1965—Pub. L. 89-44, §808(c)(1), struck out "Refund or" and inserted in lieu thereof "Credit, refund, or" in section catchline.

Subsec. (a). Pub. L. 89-44, §808(b)(1), substituted "Credit or refund" for "Refund" in heading and struck out "Refund of any tax imposed by this chapter shall be made", replacing it with "Credit or refund of any tax imposed by this chapter or section 7652 shall be allowed or made".

Subsec. (c). Pub. L. 89-44, §808(b)(2), inserted "credit or" before "refund".

1958—Subsec. (a). Pub. L. 85-859 authorized refunds to export warehouse proprietors, provided for refunds to be made without interest, and eliminated provisions which authorized refunds where the tax has been paid in error.

Subsec. (b). Pub. L. 85-859 permitted relief where a tax has not yet been paid on tobacco products and cigarette papers and tubes proved to have been withdrawn from the market.

Subsec. (c). Pub. L. 85-859 substituted "under this section shall be filed within 6 months after the date of the withdrawal from the market, loss, or destruction of the articles to which the claim relates" for "imposed by this chapter shall be filed within 3 years of the date of payment of tax".

**EFFECTIVE DATE OF 1965 AMENDMENT**

Pub. L. 89-44, title VIII, §808(d)(2), June 21, 1965, 79 Stat. 165, provided that: "The amendments made by subsections (b)(1), (2), and (c) [amending this section] shall take effect on October 1, 1965."

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

**§ 5706. Drawback of tax**

There shall be an allowance of drawback of tax paid on tobacco products and cigarette papers and tubes, when shipped from the United States, in accordance with such regulations and upon the filing of such bond as the Secretary shall prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 709; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1419; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

**AMENDMENTS**

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary".

1958—Pub. L. 85-859 substituted "tobacco products and cigarette papers and tubes" for "articles".

**EFFECTIVE DATE OF 1958 AMENDMENT**

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.